

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3600 of 1997

Date of decision: 7-7-98

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SUPERINTENDING ENGINEER

Versus

ARJUNBHAI DABHUBHAI GODAVALE

Appearance:

Mr. Mukesh Patel for Petitioners

None present for Respondent No. 1, 2, 3, 4, 5

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/07/98

ORAL JUDGEMENT

Heard the learned counsel for the appellants.

It is not in dispute that deceased Dilipkumar Arjunbhai was working as daily wager in the office of the appellants, who died in an accident arising out of and in the course of his employment. The only contention raised is that the deceased employee was a daily wager and that his dependents were not entitled to any compensation, even if it is accepted that he died in an accident arising out of and in the course of his employment. The learned Commissioner found that in the written statement the appellants herein have not taken plea that the deceased was working as casual labour. After considering the evidence of Jamilaben D. Pathan Exh.36 and statement of Thakoredas Narandas Barucha Exh.49, the Commissioner has recorded the finding of fact that the deceased was working as daily wager at escape gate of main canal of left shore of Ukai, where requirement of permanent workman was there and the person was required to work there for 24 hours. It is also found that the work which the deceased was performing was of permanent nature. A person is required for the whole year for the work which the deceased was doing on the fateful day. The appellants have also not produced any cogent evidence that the deceased was not working prior to the fateful day. This is a question of fact on which, after considering evidence of the parties, finding has been recorded; and the learned counsel for the appellants is unable to show how this finding is vitiated. No other point has been raised. This appeal has no merits. Otherwise also this appeal is barred by limitation and the application for condonation of delay has already been dismissed.

2. In the result the first appeal fails and the same is dismissed.

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